

ENTERED

October 25, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

BILL BAKER,

Plaintiff,

v.

CHRISTI TUPA, et al.,

Defendants.

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Civil Action No. 6:20-CV-00050

ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION

Before the Court is the September 17, 2021 Memorandum and Recommendation (“M&R”) signed by Magistrate Judge Julie K. Hampton. (Dkt. No. 46). In the M&R, Magistrate Judge Hampton *sua sponte* recommends dismissal of *pro se* Plaintiff Bill Baker’s prisoner civil rights case under Federal Rule of Civil Procedure 41(b).¹ Specifically, Magistrate Judge Hampton recommends dismissal because (1) Baker failed to respond to the pending Motion for Summary Judgment, (Dkt. No. 42); (2) a June 2021 order was returned as undeliverable, (Dkt. No. 45); (3) Baker is no longer in TDCJ custody; and (4) Baker was warned that failure to notify the Court of a change of address may result in dismissal for failure to prosecute, (Dkt. No. 17).²

¹ Federal Rule of Civil Procedure 41(b) provides in relevant part: “If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” A district court may *sua sponte* dismiss a case under Rule 41(b). *Nottingham v. Warden, Bill Clements Unit*, 837 F.3d 438, 440 (5th Cir. 2016).

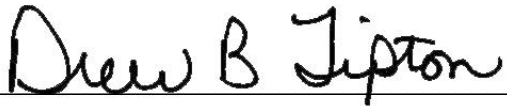
² Baker’s last filing in this case was over one year ago. *See* (Dkt. No. 25). Four months have passed without a response to Christi Tupa and the University of Texas Medical Branch’s Motion for Summary Judgment. (Dkt. No. 42). And the September 29, 2021 Order Accepting Memorandum and Recommendation was returned as undeliverable. (Dkt. No. 48). Thus, it is clear that Baker does not intend to prosecute this case.

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). No party filed an objection. As a result, review is straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005).

No plain error appears. Accordingly, the Court **ACCEPTS** the M&R as the Court's Memorandum Opinion and Order. The Court **DISMISSES WITHOUT PREJUDICE** Plaintiff Bill Baker's case under Federal Rule of Civil Procedure 41(b).

It is SO ORDERED.

Signed on October 25, 2021.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE